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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,702	09/22/2003	Donald J. Lyon	D/A3144	9252
25453	7590	06/29/2005		
PATENT DOCUMENTATION CENTER XEROX CORPORATION 100 CLINTON AVE., SOUTH, XEROX SQUARE, 20TH FLOOR ROCHESTER, NY 14644			EXAMINER ESTREMSKY, GARY WAYNE	
			ART.UNIT 3676	PAPER NUMBER

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/667,702

Applicant(s)

LYON, DONALD J.

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/23/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Two claims "22" were presented. Misnumbered claims 22(the second one) through 29 been renumbered as 23-30.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 9- 21, and 25-30 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 3,790,197 to Parker.

Parker '197 teaches Applicant's claim limitations including : a "magnet" – 13,14 as shown in Fig 1, a "magnetically attractive catch plate" – 15,16, wherein the rod portion 16 is moved vertically prior to separation of members attached to magnet and catch plate being moved.

As regards claim 2, part 10 reads on "first member" and part 11 on "second member".

As regards claim 3, part 14 reads on "strike plate" limitation.

As regards claim 4, the vertical (as shown in Fig 1) dimension of a magnet reads on "length dimension" limitation.

As regards claim 5, parts 15,16 has relative dimensions that anticipate "rod" limitation.

As regards claim 6, as shown in Fig's 1 and 2.

As regards claim 9, part 15 is inherently more strongly attractive to 13 than 16.

As regards claim 12, material is "removed from the rod" at the hole at 16b.

As regards claim 13, 14 reference discloses "spring" – 17.

As regards claim 15, either of ; the upper surface of hole at 16b which receives force exertion from lever 18, or the cup-shaped portion at lower end of the rod that receives spring 17's force exertion anticipates limitation.

As regards claim 16, the cup-shaped portion at the lower end of the rod reads on "protrusion" limitation.

As regards claim 17, part 18,22 reads on "gripping fixture".

As regards claim 18, limitation of "marking" in preamble recitation of "marking device" is related to intended use of the "device" and does not further define any particular structure that can be relied upon to patentably distinguish from the prior art structure which otherwise anticipates broad "panel" and "frame" limitations. It has been held that a preamble is denied the effect of a limitation where the claim is drawn to a

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structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951). It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

4. Claims 1, 3-5, 7, 8, 13-15, 18, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,471,634 to Mark.

Mark '634 teaches Applicant's claim limitations including : a "magnet" – 15, a "magnetically attractive catch plate" – including 3,5 as shown in Fig 7, wherein the slide assembly including 15 is moved vertically prior to separation of members attached to magnet and catch plate being moved.

As regards claim 2, a "first member" – 2, and a "second member" – 1.

As regards claim 3, part 16 reads on "strike plate" limitation.

As regards claim 4, the vertical (as shown in Fig 7) dimension of 15 reads on broad limitation of "length dimension".

As regards claim 5, long slender arrangement of assembly including 3,5 reads on broad "rod" limitation.

As regards claims 7 and 8, the catch assembly including 3,5 is shown to be straight and described as being bendable to be capable of forming a curve in its intended application.

As regards claims 13,14, Mark '634 discloses "spring" – 24.

As regards claim 15, the screws shown in Fig 4 read on broad limitation of "force exertion member".

As regards claim 18, limitation of "marking" in preamble recitation of "marking device" is related to intended use of the "device" and does not further define any particular structure that can be relied upon to patentably distinguish from the prior art structure which otherwise anticipates broad "panel" and "Frame" limitations.

As regards claim 24, one of ordinary skill in the art would recognize that opening the refrigerator inherently exposes access to door and/or shelf mechanisms in which various small substrates may be jammed.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 3,790,197 to Parker in view of U.S. Pat. No. 6,607,223 to Mastro.

Parker '197 teaches the claimed invention except for further details of the device to which it is mounted. Mastro '223 teaches that it is well known in the art of electrophotographic printing machines to provide a magnetic latch to hold a panel closed. It would have been obvious to one of ordinary skill in the art at the time of the

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invention to provide a magnetic latch such as the one disclosed by Parker '197 to keep the door closed but allow for the improved opening characteristics as described in the Parker '197 reference. One of ordinary skill in the art would have more than a reasonable expectation of success since the proposed modification would not otherwise affect the function of the latch or the electrophotographic printing machine when combined.

One of ordinary skill in the art would recognize that additional structures of claims 23,24 are inherent to a electrophotographic printing machine such as the one taught by Mastro '223.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 5,409,275 to Yoshida.

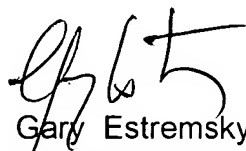
U.S. Pat. No. 5,937,487 to Bauer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gary Estremsky  
Primary Examiner  
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